

SHELTON PLANNING AND ZONING COMMISSION **SEPT. 8, 2009**

The Shelton Planning and Zoning Commission held a regular meeting on September 8, 2009 in the Shelton City Hall, Auditorium, at 7:00 p.m., 54 Hill Street, Shelton, CT. The Chairman reserved the right to take items out of sequence.

Commissioners Present: Chairman Anthony Pogoda
 Commissioner Chris Jones
 Commissioner Patrick Lapera
 Commissioner Thomas McGorty
 (alternate for Comm. Harger)
 Commissioner Ruth Parkins
 Commissioner Joseph Sedlock
 (alternate for Comm. Sylvester)

Staff Present: Richard Schultz, Administrator
 Anthony Panico, Consultant
 Karin Tuke, Recording Secretary

Tapes (2) and correspondence on file in the City/Town Clerk's Office and the Planning and Zoning Office. Attachments are not available on the website.

CALL TO ORDER/PLEDGE OF ALLEGIANCE

Chairman Pogoda began the meeting at 7:00 p.m. with the Pledge of Allegiance and a roll call.

OLD BUSINESS

APPLICATION #09-24, UNITED METHODIST HOMES FOR MINOR MODIFICATION OF DETAILED DEVELOPMENT PLANS FOR PDD #26 (BACKUP GENERATOR), 580 LONG HILL AVENUE (MAP 41, LOT 29) – REQUEST FOR WITHDRAWAL (APPLICANT INITIATED)

Bob Congdon, Vice President, Development & Public Relations for United Methodist Homes addressed the Commission. Mr. Congdon referenced the Wesley Heights emergency generator and the request to withdraw this application without prejudice. The application for the back up generator had been presented to the P&Z Commission at the August 10th meeting. Mr. Congdon read a letter he sent to Rick Schultz outlining the background of the generator issue and the reasons for requesting a withdrawal at this time.

He summarized that after a proper evaluation of determining their options, developing a feasible plan and meeting with the neighborhood residents, they intend to submit a revised application to P&Z within 60 days.

***See attached letter dated September 4, 2009 to Richard Schultz, Shelton Planning & Zoning from Robert Congdon, Vice President, Development & Public Relations, United Methodist Homes.**

On a motion made by Patrick Lapera seconded by Chris Jones, it was unanimously voted to accept the request for withdrawal without prejudice for Application #09-24.

APPLICATIONS FOR CERTIFICATES OF ZONING COMPLIANCE

SEPARATE #4571 VERIZON WIRELESS, 219 NELLS ROCK RD, TELECOMMUNICATION

Mr. Schultz indicated that at the August meeting, Staff reported about two applications that the CT Siting Council approved. This is the existing tower off of Nells Rock Road. Application #4571 and #4577 will be a co-location; this is consistent with what the Commission likes to see. Staff recommends approval.

Comm. Lopera informed Chairman Pogoda that he would need to be recused due to a client conflict.

On a motion made by Ruth Parkins seconded by Thomas McGorty, it was unanimously voted to approve Separate #4571. Comm. Lopera recused himself from this vote.

SEPARATE #4577 MAXTON TECHNOLOGY, 219 NELLS ROCK RD, TELECOMMUNICATION

On a motion made by Ruth Parkins seconded by Thomas McGorty, it was unanimously voted to approve Separate #4577. Comm. Lopera recused himself from this vote.

SEPARATE #045 METRO PCS, 2 CORPORATE DRIVE, TELECOMMUNICATION

Mr. Schultz indicated that this is the Scinto Tower office building, Tower 2, on the right side. The Commission has approved three telecommunication carriers up there within the last 10 years, and this will be the third. They have made adjustments that visually can't be seen. He commented that this proposal is consistent with the Shelton Zoning Regulations for the telecommunications roof-mounted structures. There is existing equipment there, but they have enough roof-top space to make it work.

Mr. Schultz added that right now they don't have to make notification requirements to the neighbors; however, the Zoning Subcommittee is working on a policy for that to include notifications for residences within a 200 foot radius. However, this one is located in a Corporate Park.

On a motion made by Ruth Parkins seconded by Thomas McGorty, it was unanimously voted to approve Separate #045.

SEPARATE #5014, DARCIE ROY, 44 HUNTINGTON PLAZA, SIGNS

Mr. Schultz showed the current and proposed signs for the TD Bank located in Huntington Center. Darcie Roy from National Signs was present to answer any questions from the Commission. He added that this request includes the menu sign on Huntington Street and the sign on the building itself.

On a motion made by Chris Jones seconded by Thomas McGorty, it was unanimously voted to approve Separate #5014.

SEPARATE #5023 ADCO SIGN CO., 706 BPT AVE, SUITE 101, SIGN

Mr. Schultz indicated that the applicant has requested this to be withdrawn.

On a motion made by Patrick Lopera seconded by Chris Jones, it was unanimously voted to accept withdrawal of Separate #5023.

SEPARATE #5035 AGNOLI SIGN CO, 898 BPT AVE, SIGN

Mr. Schultz indicated that the applicant has requested this to be withdrawn. He added that new applications will be submitted for #5023 and #5035.

On a motion made by Thomas McGorty seconded by Chris Jones, it was unanimously voted to accept withdrawal of Separate #5035.

SEPARATE #4575 J&D COUNTRY BLDRS, 29 TWIN BROOK DR, IN-LAW

Mr. Schultz indicated that this is a proposal for a two-story addition. The first level will be a two-car garage and the accessory building unit will be above it. He provided photos for the Commission and a layout of the floor plan for their review.

Mr. Schultz indicated that the applicant complies with the regulations, and an affidavit has been submitted. The architectural drawings are consistent with the neighborhood. The builder is present to answer any questions.

Comm. Lapera asked if there was a new driveway there.

Mr. Schultz responded that they are just modifying the existing driveway.

There was additional discussion about the access to the house on the first floor and the square footage. Comm. Parkins asked what the current garage space would become as part of this.

The builder, name not provided, stated that it would be used for storage space. It would be made into a playroom downstairs.

Comm. Parkins asked if it was part of the in-law.

The builder, name not provided, responded that it was not part of the in-law.

On a motion made by Chris Jones seconded by Patrick Lapera, it was unanimously voted to approve Separate #4575.

SEPARATE #5039, SHELTON POP WARNER CHEERLEADING, 500 BPT AVE, PRACTICE

Chairman Pogoda indicated that he would need to recuse himself and have the Vice Chairman act in his behalf for this discussion and vote.

Mr. Schultz familiarized the Commissioners with the mixed use site near Wendy's and the gas station and indicated that this application refers to the large maintenance building in the back which has a large open area with high ceilings. The Shelton Pop Warner Cheerleaders will be competing in four competitions this fall. He prefaced that the Shelton school system no longer allows them to lease space after hours as a cost and safety measure.

Mr. Schultz read a letter written by the Cheerleading Director, Jenny Kelly, of the Pop Warner Cheerleaders indicating that in order to excel in the upcoming competitions, they need a practice space. For practice, they will use their own mats, and they are fully insured. They are also CPR certified. They have a goal to win all their competitions and win a trip to Florida in December. Shelton hasn't been able to send a team there in five years. The cheerleaders, coaches and parents request the help of the P&Z Commission.

Mr. Schultz summarized that the permit is for cheerleading squad practice and the timeframe for this is only from October 1st to November 30th of this year. The Statement of Uses for this PDD allows City of Shelton uses; insofar as they

are directly related, Mr. Schultz added that he thinks the Statement of Uses can cover it.

Also, a referral was made to the Fire Marshal's Office; the Fire Marshal has to conduct a thorough check on this, so if the Commission is inclined to act favorably on this, it is contingent upon the approval of the Fire Marshal. This is a place of assembly, so the Fire Marshal has to scrutinize it, but he reiterated that the cheerleaders are in dire straits as to finding a facility for the squad to practice.

Comm. Parkins asked how many girls and others would be in that building at one time.

Mr. Schultz responded that it would be no more 35 cheerleaders and 4 coaches. Practice is held Monday through Friday, 5 p.m. to 9 p.m. The parents wanted him to relay to the Commission that they realize it is a peak parking time, but they will be dropping off and picking up the children. The area for parking is a secure area and only the coaches will be parking cars.

Comm. Parkins asked if it would interfere with Kobe's traffic.

Mr. Schultz responded that it is a free standing building at the other end. He showed her the building location and the drop off and pick up area on a site map.

Comm. Parkins asked what the maximum capacity for that building is.

Mr. Schultz responded that the Fire Marshal would have to determine that. He tried to get the report but wasn't able to – he may negate this; but he just wanted to go over the Statement of Use issue related to the City of Shelton with the Commission.

Comm. Lopera stated that the permit is only for 60 days, so the use will expire when the permit expires.

Comm. Parkins asked if this was a City of Shelton program.

Mr. Schultz responded that it is a judgment call; it's an associated City of Shelton use.

On a motion made by Chris Jones seconded by Thomas McGorty, it was unanimously voted to approve Separate #5039 contingent upon the approval of the Fire Marshal and only for the period of 10/1/09 to 11/30/09. Chairman Pogoda recused himself from this discussion/vote; Vice Chairman Lopera acted in his behalf.

APPLICATION #09-20, MERCANTILE DEVELOPMENT, INC. FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (BUILDING EXPANSION, 10 WATERVIEW DRIVE (MAP 79, LOTS 10 AND 11), LIP DISTRICT (PUBLIC HEARING CLOSED ON 7/14/09)

Mr. Schultz provided copies of the Staff Report regarding this Application. As a side note, he mentioned that the Police Department took a reading of the noise level from the compactor last week. The maximum decibel is 61 and the actual reading was far below that. Tom Dingle from P&Z was present and he reported that they took several readings and an official letter from the Police Department would be forthcoming.

Mr. Schultz recalled that the letters from the Fire Marshal and the City Engineer recommending approval have already been read into the record. He indicated that Mr. Panico would read the Staff Report that focuses on the buffer area and what needs to be done to supplement it.

Comm. Parkins asked what the decibel level was on the trash compactor.

Mr. Schultz responded that it was below the 61 – it was 58 or 56. The test was conducted on a beautiful day with ideal conditions, and it was very controlled.

Mr. Panico read the draft report and draft resolution with stipulations for the Mercantile Development Inc. Building Expansion.

***See attached P&Z Report/Draft Resolution dated 9/8/09 regarding Application #09-20.**

Chairman Pogoda commented that he knows that the Commissioners had concerns about the noise levels of the compactor, but they are well within satisfactory limits. However, he thinks Staff will continue to work with the Mercantile to deflect any remaining noise in that area by adding more landscaping.

Comm. Jones asked if the neighbors had been made aware of what has been going on with this – the noise testing and (inaudible)...

Comm. Lapera asked where the compactor was located. Mr. Panico showed him the location at the end on the site plan and the area where the proposed replanting would be.

Comm. Lapera responded that even with the decibel level being below 61, the conditions are clear that the noise level can be reduced even more with additional landscaping behind the building and still keep the fence.

Mr. Panico explained and showed the row of proposed evergreens. He added that he and Rick would like to go out and look at the density of the vegetation there to determine if it needs any supplementation later on. Unfortunately, the deciduous trees always look better at this time of year.

Comm. Parkins indicated that the location Tony referenced on the landscaping detail plan for proposed evergreens indicates that they are existing, not proposed trees.

Mr. Panico responded that if it says existing, then they will be required to supplement the existing trees. They'll be better off with a double row of them for sound deflection. Once they see the final numbers on the sound tests, if necessary, they can request them to put a small length of solid fencing in to further improve on the sound buffering.

End of Tape 1 7:34 p.m.

On a motion made by Patrick Lapera seconded by Thomas McGorty, it was unanimously roll call voted (6-0) to approve Application #09-20 based upon the discussions regarding noise deflection and requirements for tree buffering.

STOP WORK ORDER: REPORT AND DISCUSSION WITH ADMINISTRATOR/ZEO RELATIVE TO CRANBERRY HILL ESTATES, ARMSTRONG ROAD

Mr. Schultz indicated that Staff has provided the Commissioners with a report dated September 8th which includes all the correspondence received by his Department on or after the August 11th P&Z meeting.

***See attached Report to the Shelton Planning & Zoning Commission from Richard Schultz dated 9/8/09 regarding the Stop Work Order at Cranberry Hill Estates.**

Mr. Schultz commented that as a side note, this application is also before the Inland Wetlands Commission. They are meeting on it again this Thursday night (9/10/09). At the last meeting, the IWC asked the Applicant to upgrade their plan. Also, this report reflects that the Conservation Commission asked them to update their plan with different species, larger caliber and a better quality type of restoration. This has taken awhile because it has gone through so many referrals, and different agencies including this Commission and Inland Wetlands.

He read his report detailing the Stop Work Order issued on May 7, 2009 regarding the illegal removal of trees within the proposed open space and development areas of the Cranberry Hill Estates project, and the Notice of Violation issued on May 8, 2009.

He read the list of correspondence his Department has received since this Stop Work Order has been issued. He added that the Inland Wetlands Commission has an arborist and the Conservation Commission has a landscape architect; both are working together with the Applicant. The finished product should be something that the City of Shelton should be pleased with.

Mr. Schultz continued reading the actions that Staff has taken since the last meeting and noted that the Conservation Commission has recommended to the BOA to accept this Open Space once the Tree Restoration Plan has been completed. He relayed that this Commission needs to know now because, if they are going to reject it, and they still can, then the condition of approval would have to be modified by either offering it to the Shelton Land Trust or to the private Homeowner's Association. That would require action by this Commission – the condition of approval is to convey the 6 ½ acres to the City of Shelton. The Alderman have to accept it and if they reject, it will come back to this Commission for modification and a vote.

At a meeting last week, the Conservation Commission, the neighbors and all parties were present; the discussion emphasized that everyone needs to work together to get this Restoration Plan completed this growing season so that it can be taken to the next phase.

Mr. Schultz indicated that Staff consulted with Asst. Corporation Counsel who has recommended to not lift the Stop Work Order until the Tree Restoration Plan is completed to the satisfaction of Staff. He will advise the Commission members to look at it at that time. Once the Plan has been approved, Staff will provide a bond amount to the Applicant who will post the bond before work commences. This bond will cover the value of the trees and the cost to install. The bonding must be done before the installation can commence. Once the Restoration project is completed, the Stop Work Order can be lifted and then Staff can have a pre-construction review with the Applicant so that they can take out building permits to start their work. They have been delayed since May.

Mr. Schultz reiterated that Asst. Corporation Counsel states that they should not lift the Stop Work Order but authorize the restoration work. They still do not have the final Restoration Plan; however, they are working with all parties involved, hopefully, it can be completed next week. Mr. Schultz indicated that he would inform all the Commission members when the plan is complete and that he'd like to post the bond and start work. The neighbors are present tonight,

and they asking the Commission for a Show of Cause Hearing; Inland Wetlands has declined because they don't think it is necessary.

Comm. McGorty commented that he was confused as to why they are being held up from a project because of trees being cut down – something which they had no control over. They are being treated like they have done something wrong.

Mr. Schultz responded yes, that he has heard that is how some Commission members feel about it. Atty. Bellis will probably address the Commission about that again tonight.

Comm. McGorty asked if that was still the case.

Mr. Schultz responded that no party has been found responsible.

Comm. Jones interjected that police reports have been filed about this.

Mr. Schultz responded yes, but no party has been found responsible.

Comm. Parkins commented that she was surprised that this Stop Work Order hadn't been lifted already because she thought the conversation at the last meeting was that they were putting a hold on lifting that order, for the courtesy of the IWC, until they met two days later.

Comm. Parkins stated that she sat through that Inland Wetlands Meeting, and it was a very lengthy meeting. She listened and heard for herself that the IWC had no objection to the P&Z Commission taking whatever action that they felt was appropriate. They were not asking P&Z to hold the Stop Work Order in place.

Mr. Schultz responded that now they have Asst. Corporation Counsel recommending to this Commission not to lift it.

Comm. McGorty asked if there was an investigation done by the Police.

Mr. Schultz responded that there was a complaint made to the Police Department – to what degree they followed up – he cannot answer that.

Comm. Jones commented that there was an admission made that the builder was there that day.

Atty. Bellis interjected that was not true – the builder was notified that it happened and he came to the site.

Comm. Jones asked if there weren't still people there cutting the trees down.

Atty. Bellis responded that they were already cut down.

Comm. McGorty commented that he has been led to believe, and from what he has heard, the builders had nothing to do with this – but they are still going over this - and it reads as if they did this and they are being punished. He added that it wasn't their job to find out who was guilty.

Comm. Jones responded that as Rick says, they have Assistant Corporation Counsel recommending that they not lift the Stop Work Order – so should they not listen to their own Counsel or prove to them after the meeting that they are fine with it?

Comm. Parkins commented that she heard the Applicant state that they are amenable to whatever the IWC wanted them to do. They would work with them

to provide a plan that everyone would be happy with. They approve things at this Commission with conditions all the time, so why do they have to wait for them to complete the work before lifting this Stop Work Order?

Mr. Schultz responded that there are two schools of thought about the Stop Work Order- it doesn't stop them from doing it. It's just an order that is still in place - they can still do the work – yes.

Comm. Parkins commented that she doesn't see how they can do that...

Comm. Jones agreed that is contradictory because a Stop Work Order means don't work --so you shouldn't be doing anything.

Mr. Schultz responded that the Stop Work Order will have to be modified to spell out exactly what it means. It stops all work related to the construction, as approved by the site plan, but it authorizes the work of the Tree Restoration Plan dated such and such... Mr. Schultz added that he wants the Commission to know that they do not want to hold up the work of the Restoration Plan.

Comm. Parkins asked if that meant they would be waiting for them to plant every tree and every shrub that is on the Plan or are they just waiting for IWC to approve the Plan.

Mr. Schultz responded that it is actually both. IWC is going to act on the Plan, hopefully, tomorrow night. IWC is only acting on the Plan and staying clear of the Stop Work Order issue and leaving that to P&Z. Mr. Schultz indicated that he can modify the Stop Work Order to reflect what it means now based on the report of what the IWC wants to do with the Restoration Plan.

Comm. Lopera asked what happens if they approve the Restoration Plan tomorrow night – does the Restoration Plan have to come back to P&Z?

Mr. Schultz responded no, he'd like them to rely on Staff. He'll call all the Commissioners and inform them that the Restoration Plan is sound and is in order and they are authorizing the work.

Comm. Parkins stated that quite frankly, she thought that was what they had decided to do at the last meeting. They were awaiting the IWC approval the following night and then it would be lifted – that is why she sat through their very long meeting.

Mr. Schultz responded that it got a little bit more delayed because the in-house Conservation Commission specialist is providing the recommendation to the Applicant's professional which is (inaudible)...

Comm. Parkins commented that the Conservation Commission isn't asking them to hold the Stop Work Order in place.

Chairman Pogoda indicated that it is basically Corporation Counsel recommending that they not lift the Stop Work Order. As Rick mentioned, he can change the wording on the Stop Work Order, so if IWC approves this tomorrow, they can go ahead and start doing what they have to do.

Comm. Parkins asked if it has to come back to them to lift the Stop Work Order.

Comm. Lopera asked if they could have the Stop Work Order automatically lift once IWC approves the Plan – then it's been approved already. Or should they leave the SWO in place and wait until they get the Plan approved, plant the trees and then have it...

Chairman Pogoda commented that he thinks that is what Corporation Counsel would be alluding to – as long as IWC approves it, they can authorize the work, modify the SWO and talk about the restrictions.

Comm. Parkins asked if there was any other letter from Corporation Counsel because this one doesn't recommend that.

Mr. Schultz responded that his recommendation was a verbal one to him last Friday and he referred it to Atty. Bellis.

Atty. Steven Bellis, representing the Applicant, addressed the Commission. Atty. Bellis responded that the Applicant's response would be that they have said that they would be willing to put up a bond – and it would be combined for IWC and P&Z Commission – and that would act in lieu of the SWO because now there is a bond in place not only for the value of the trees but for the installation of the trees that the Applicant is willing to put up. There is no need for a SWO.

Comm. McGorty agreed that sounds reasonable.

Mr. Schultz referenced an error in his report – that the IWC memo should be dated Sept. 8th – not the 10th.

Chairman Pogoda stated that he wanted to structure a motion that says - that the SWO should be lifted at the time of the approval of the Tree Restoration Plan and the posting of a bond to cover installation and the value of the trees.

Comm. Sedlock asked if that would satisfy the recommendations of the Conservation Commission and the IWC.

Mr. Schultz read a draft motion stating that the Stop Work Order, as imposed by Staff on May 7, 2009 shall be lifted upon the final approval of the Tree Restoration Plan as determined jointly by Staff, IWC and the Conservation Commission provided that a performance bond be submitted to cover 100% of the value of the trees and the installation costs.

Comm. Parkins asked if the Conservation Commission was involved in this before or did they just get involved with it.

Mr. Schultz responded that the Conservation Commission makes recommendations to the BOA on natural resources. He recalled that at the last P&Z Meeting he recommended that the Commission direct him to make a referral to the Conservation Commission, and that is what he did.

Comm. Parkins asked if the Conservation Commission was working with IWC or if it was a separate review and they are going to provide an opinion.

Mr. Schultz responded that everyone is working together jointly.

Comm. Lopera asked who will issue the approval of the Plan – IWC or Conservation.

Mr. Schultz responded that it would be Inland Wetlands – in conjunction with the Conservation Commission. Inland Wetlands is a land use board.

Comm. Lopera asked for clarification that the IWC is the governmental body that votes – the Conservation Commission only provides recommendations, correct?

Mr. Schultz responded yes, and this Commission is authorizing him to put his stamp on it too - as P&Z Staff. So, they are all working together, the neighborhood, IWC, Conservation Commission. Mr. Schultz reiterated that this could be done in a month but the BOA has to accept the open space, so if that is delayed, the Applicant can't take out the permit unless the conditions of approval are modified.

Comm. Parkins asked who makes the referral to the BOA.

Mr. Schultz responded that he has already done that and they are sitting on it pending the completion of the Restoration Plan.

Comm. Parkins asked what the recommendation was.

Mr. Schultz responded that it was recommended to accept the 6 ½ acres of open space. The Conservation Commission thinks it is prudent for the City of Shelton to own that 6 ½ acres – but it's a separate issue; however, it needs to be noted as a side issue. A letter will come before this Commission from the President of the BOA and it will state that they have fulfilled all the conditions of approval, posted their bond, and work will commence.

Comm. Lopera asked if the Tree Restoration Plan, in any event, has to be approved by the IWC.

Mr. Schultz responded that was correct.

Atty. Bellis commented that they have worked with the IWC and the Conservation Commission. He knows that the Wetlands Commission, when he goes to the meeting on Thursday night, will say that their jurisdiction is the wetlands and the upland buffer --not the open space. They will say that they don't have jurisdiction on open space -- that is for Planning and Zoning. So he just doesn't want this Commission...

Mr. Schultz responded that is why the Conservation Commission has come in to look at everything regarding the protection of natural resources.

Atty. Bellis responded that the Conservation Commission is an advisory board. Pat asked the question if the IWC will vote on this and the answer is no. IWC will vote on the wetlands part of it.

Comm. Parkins commented that is a very small portion of the area.

Comm. Lopera indicated that he wanted to go back to his initial question – which is who is approving the tree planting remediation.

Mr. Schultz responded that it would be P&Z Staff and Inland Wetlands. He is relying on the assistance of Inland Wetlands, Conservation and the neighbor's biologist all working together.

Mr. Panico commented that Atty. Bellis's concern is that the approval of the IWC might be severely limited to impacts on the inland wetland areas.

Comm. Parkins agreed and indicated that they even stated that.

Mr. Panico continued that this Commission would expand upon that to cover the other areas.

Mr. Schultz responded that he is getting assistance by a landscape architect from the Conservation Commission.

Mr. Panico stated that the short answer is that the IWC is not going to be put in the position of having to approve the total Restoration Plan. They will approve the portion of the Plan that falls within their jurisdiction. The Staff level will approve the rest of it with input from Conservation.

Mr. Schultz commented that he expects this Commission to be disappointed in two weeks when they meet again, and nothing has been approved.

Comm. Parkins asked if he expects that.

Mr. Schultz responds that he would expect that – he expects that he would hear from the Commission that they expect an approval.

Comm. Parkins commented that she was expecting an approval a month ago.

Mr. Schultz responded that they will be meeting again in two weeks so it won't be a long duration.

Mr. Panico indicated that it could be approved by then because it doesn't require the vote of this Commission.

Mr. Schultz responded that is correct – but, as they can see, there are a lot of parties involved, and it will take some time and he anticipates that happening.

Comm. Parkins commented that she feels as though this application is being handled with prejudice because of something that has occurred.

Chairman Pogoda responded that something did occur.

Comm. Parkins stated that she knows something occurred, but feels that the Applicant is being treated like they are responsible for it; therefore, this Commission is holding them back from doing anything on this property until they rectify their wrong.

Chairman Pogoda responded that whether they did this knowingly or someone else did it, it has to be rectified before anything can go forward.

Comm. Parkins agreed and stated that they have agreed to rectify that.

Chairman Pogoda commented that was right but there are some conditions that have to be met before they can continue.

Comm. Parkins stated that she understands that there are conditions of approval – so before they can begin building, they have to meet their conditions of approval.

Chairman Pogoda commented that something happened, and yes, it is holding them up, everyone understands that, and he doesn't think anybody likes it, but until they can get it squared away...

Comm. Parkins indicated that it has not been proven who did this.

Chairman Pogoda agreed but unfortunately, they are going to be held up by it. He asked for a motion to direct Staff to lift the SWO upon approval of the Tree Restoration Plan contingent upon the submission of the bond.

Mr. John Trautman, Ecological Consultant, representing the neighbors, asked to address the Commission. Mr. Trautman indicated that he'd like to

distribute a letter to the Commission which he believes will help explain the recommendations from the Wetlands Agency as well as the Conservation Commission. He commented that the Plan is off to a good start and focuses primarily on only the Tree Restoration Plan. His letter will explain that there were other ecological injuries to the property besides the cutting of trees and these other ecological injuries need to be addressed, and that is what the Conservation Commission has requested as well as the IWC.

Atty. Bellis, representing the applicant stated for the record, that they hired an ecologist and they will have him report to the IWC on Thursday night.

Comm. Parkins asked Rick, in working with the Conservation Commission and the Applicant's expert, would he be looking for consensus.

Mr. Schultz responded that he already has it. The calls are already going to? (inaudible) who is doing the design – calls have been made to upgrade the Plan to the satisfaction of all these concerned parties. He indicated that he would call the Commissioners when that has been satisfied.

Comm. Parkins responded that she is concerned that it will never be satisfied – that is her point.

Mr. Schultz agreed that sometimes it is difficult to get a consensus.

Comm. Lopera asked, if they make a motion to modify the SWO to allow remediation work and provide approval for the SWO to be lifted upon IWC approval of the Tree Plan – if there is a long period of delay, does this Commission retain the right to modify their decision to lift the SWO, if they want to?

Mr. Schultz responded yes, absolutely and it's in the zoning regs.

Comm. Parkins commented that there are two separate sets of approval – the first one for the IWC approval of the buffer area that was disturbed.

Comm. Lopera asked if that was in their purview or if IWC has to approve ...

Mr. Schultz responded yes, that is a separate land use.

Comm. Parkins added that then there is also the Open Space area that is under the purview of P&Z.

Mr. Schultz responded yes, the upland area.

Comm. Lopera asked if it was open space or proposed open space.

Mr. Schultz responded that it was proposed open space.

Comm. Parkins asked what would happen if they don't accept it as open space and it reverts to the condo association.

Mr. Schultz responded that it usually goes to Land Trust first because that is a public entity.

Mr. Panico added that it will be open space – the ownership of the open space is still up for grabs. If the Alderman, on behalf of the City, decide that they don't want to accept it as open space, it will be preserved as open space through some other mechanism as part of the requirement of PRD approval.

End of tape 1B 8:05 p.m.

Mr. Schultz responded that he will be reporting on two components – the SWO part and the conveyance of open space.

On a motion made by Patrick Lopera seconded by Thomas McGorty, it was unanimously voted to direct Staff to modify the Stop Work Order to permit the remediation work and the tree planting, and a lifting of the Stop Work Order contingent upon the approval of the Tree Restoration Plan by the Inland Wetland Commission.

New Business

APPLICATION #09-24, WHITE HILLS EAGLES RC CLUB FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (NON-PROFIT MEMBERSHIP CLUB), 178 BIRDSEYE ROAD (MAP 43, LOT 12), R-1A/R-1 DISTRICT – ACCEPT AND SCHEDULE PUBLIC HEARING.

Mr. Schultz indicated that the next four New Business applications require public hearings. He indicated that they would be meeting twice this month and there was discussion about the Commissioner's availability on different dates. Mr. Schultz explained that Application #09-24 is the result of a formal complaint regarding model airplanes. Normally, this type of activity goes on informally, but if they get a complaint, Staff has to look at more closely because there are zoning issues and provisions for non-profit membership groups. It requires a Special Exception; hence, the public hearing.

On a motion made by Patrick Lopera seconded by Ruth Parkins, it was unanimously voted to accept Application #09-24 and schedule a public hearing for September 22, 2009.

APPLICATION #09-25 BRIDGE TO PRESCHOOL LLC FOR SPECIAL EXCEPTION /SITE PLAN APPROVAL (PRESCHOOL), 917 BRIDGEPORT AVENUE, (MAP 8, LOT 13), OP DISTRICT – ACCEPT AND SCHEDULE PUBLIC HEARING

Mr. Schultz explained that Application #09-25 involves a preschool near Homestead Hotel. This will be a small preschool group that also requires a Special Exception.

On a motion made by Patrick Lopera seconded by Thomas McGorty, it was unanimously voted to accept Application #09-25 and schedule a public hearing for September 22, 2009.

APPLICATION #09-26, DOMINIC THOMAS ON BEHALF OF PAM JOHN, LLC FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (CONVERSION OF MIX USE TO SIX FAMILY DWELLING), 82-84 HILL ST. (MAP 117d, LOT 70), R-4 DISTRICT – ACCEPT AND SCHEDULE PUBLIC HEARING

Mr. Schultz explained that Application #09-26 involves the former Stanley's Market right down the road from City Hall. The Applicant received variances from the ZBA to allow for a net increase of four dwellings for a total of six. This is a mixed use building. There are two commercial storefronts and two apartments on the upper floor area. The Applicant has indicated that the dwelling units will be limited to one bedroom. The Applicant also received on-site parking variances. Four dwelling units or more under the Shelton Zoning Regs trigger a Special Exception. Mr. Schultz added that there was support from the neighborhood; however, the neighborhood is very concerned about the status of the building and the possibility of what mixed use can mean down the

road. There was support and he anticipates that support to be present at the public hearing.

Atty. Dominick Thomas, 315 Main Street, Derby, CT representing the Applicant, addressed the Commission. He informed the Commission that the Applicant is a contract purchaser from an multi-owner family estate and they are under contractual obligations with respect to the land use. They negotiated it quite heavily and pushed the variance through in order to proceed. He requested that it be held at the 9/22/09 meeting.

On a motion made by Patrick Lapera seconded by Chris Jones, it was unanimously voted to accept Application #09-26 and schedule a public hearing for September 22, 2009.

APPLICATION #09-27 DOMINIC THOMAS ON BEHALF OF CROSSROADS AT EXIT 13 FOR MODIFICATION OF STATEMENT OF USES AND STANDARDS FOR PDD #53 (SPLASH CAR WASH), 376 BPT. AVE. (MAP 77, LOT 19) – ACCEPT AND SCHEDULE PUBLIC HEARING.

Mr. Schultz continued that the last Application #09-27 for a public hearing is Mr. Newman coming before P&Z to amend the Statement of Uses and Standards to allow an oil and lube facility as an accessory use at Splash Car Wash. Right now the Statement of Uses and Standards does not permit it as an accessory use. He has petitioned twice, been denied twice and the courts have upheld the denial. This will be the third application.

He provided the possible dates again and informed the Commissioners that the latest they could have a public hearing based on the 65-day scheduling would be November 10th.

On a motion made by Thomas McGorty seconded by Patrick Lapera, it was unanimously voted to accept Application #09-27 and schedule a public hearing for September 22, 2009.

PUBLIC PORTION

Chairman Pogoda asked three times if there was anyone from the public wishing to address the Commission on any items not on the Agenda. He asked for a motion to close the public portion due to no response.

On a motion made by Patrick Lapera seconded by Ruth Parkins, it was unanimously voted to close the Public Portion.

OTHER BUSINESS

APPROVAL OF MINUTES: 5/27/09, 6/9/09, 6/23/09

On a motion made by Ruth Parkins seconded by Thomas McGorty, it was unanimously voted to approve the minutes of 5/27/09, 6/9/09 and 6/23/09.

8-24 REFERRAL: LICENSE AGREEMENT BETWEEN THE CITY AND MAYBECK FOR PROPERTY AT 279 SOUNDVIEW AVENUE.

Chairman Pogoda stated that there was a question at the last meeting as to this agreement in regard to the length of time and the cost. The bottom line is that they are only asked to give a Referral on the license agreement between the City and Maybeck. The amount and time are not under their purview.

Mr. Panico added that indirectly there is a potential impact on long range planning and potential use of the property that could be adversely impacted by a long term lease though. Therefore, the fact that the lease is annual thing is their concern.

Comm. Parkins agreed that was her concern – the length of the lease in terms of the use of the property, not any financial compensation.

On a motion made by Ruth Parkins seconded by Thomas McGorty, it was unanimously voted to report favorably on the 8-24 Referral regarding the license agreement between the City and Maybeck for property at 279 Soundview Avenue.

8-24 REFERRAL: DISPOSITION OF PORTION OF CITY OPEN SPACE PROPERTY LOCATED AT 279 SOUNDVIEW AVENUE AS SHOWN ON THE ATTACHED MAP.

Mr. Schultz commented that it should be noted, and the Chairman will clarify this, 8-24 Referrals listed as Agenda Items C, D, and F are being revisited. Some of it involves wording and Assistant Corporation Counsel provided wording this time. Mr. Schultz distributed maps for all the Commissioners to review.

Comm. Jones asked how this was put back onto their agenda.

Chairman Pogoda responded that it has been requested by the Mayor.

Comm. Jones commented that this was voted on by this Board to vote unfavorably on the issue. It went to the BOA two nights later. They discussed it but indicated that they would not vote on it until they read the P&Z minutes. He asked who gave authorization to put this back on their agenda.

Chairman Pogoda responded that the Mayor has requested the P&Z Commission to place this on the agenda.

Comm. Jones asked where he gets the authority because nowhere on the sale of City property does it state that he can make a referral to the Planning & Zoning Commission's agenda. He added that he has looked at their minutes, the BOA minutes and the Conservation Commission's minutes, and procedures to sell City Property Ordinance #8-32.

Comm. Parkins commented that this Commission has the right to put this back on the agenda. She asked for clarification from the Chairman.

Chairman Pogoda responded that he thinks she is correct about that.

Mr. Schultz added that Assistant Corporation Counsel believes that they have the authority to do it.

Comm. Parkins stated that there have been some issues that have been brought to light since that vote.

Comm. Sedlock asked where the issues were brought to light.

Comm. Jones asked if, in Robert's Rules of Order, they had the right to put this back on the agenda.

Chairman Pogoda indicated that Rick just stated that they do have the right.

Mr. Schultz responded that the Assistant Corporation Counsel is of the opinion that they can and then the Chairman authorized it.

Comm. McGorty commented that there had been an access issue and at the time, they didn't have maps or anything.

Mr. Schultz responded and identified that they now have a composite map before them that shows how the one acre parcel is carved out in proximity to the balance of the property and all the other open space areas. He added that the Commission needs to review it with this map and have a discussion.

Comm. Jones asked what circumstances changed to put this back on the agenda.

Comm. Parkins responded that the discussion at the last meeting was that the sale of this property would limit the access to the property. That is incorrect. It will not limit the access to the additional property. This is one acre that is being carved out. The other issue is that it was being considered as a community garden. There are two other locations within the City that are currently being discussed about as community gardens.

Comm. Jones commented that he wasn't privy to that information and he hasn't heard anything about that. They were talking about the Farm-Link program with UCONN – not a community garden.

Chairman Pogoda asked where he heard about UCONN because he hadn't heard about that. Comm. Parkins indicated that she hadn't heard about it either.

Comm. McGorty commented that there is a lot of property obviously that is available for that type of use. There are people that are looking at that.

Comm. Jones responded that he is just contesting how this got back onto their agenda. He just doesn't like how they voted unfavorably to the BOA – they should have made the motion then, with their 2/3 majority – to overrule P&Z.

Comm. McGorty commented that there was a statement made that there was no access to the property if that house was given up. They didn't have all the information then, so now that they have information that they didn't have before, it is only appropriate to bring it back up.

Comm. Parkins indicated that if they recall, the first vote on this was favorable.

Comm. Jones responded that in their vote taking they said no – they voted unfavorably for this.

Comm. Parkins commented that the first vote was favorable.

Comm. Jones stated that three months ago it was put on the agenda – incorrectly, by the Mayor. So, they are saying that it is being placed on the agenda again – by the Mayor, which is incorrect again.

Chairman Pogoda responded that it is being requested to be placed on the agenda again, and he accepted it. They have a right to accept it as a Board. There have been some questionable issues which were of concern last time, which are being revisited this time.

Comm. Jones commented that he just wanted to make the point that they already voted "no" on this and now it has come back two weeks later.

Chairman Pogoda responded that it was on the agenda three months ago, and whether it was put on erroneously or not, they did vote yes.

Comm. Jones commented that he doesn't recall how he voted three months ago.

Mr. Schultz indicated that it was voted favorably, 4-2.

Comm. Jones responded that he voted no and he is remaining consistent.

Comm. Sedlock asked, regardless if they vote favorably or unfavorably on the 8-24 Referral, the BOA can choose to ignore it and do what they want anyway – correct?

Chairman Pogoda responded that is correct.

Comm. Jones commented that they had an opportunity to do that at their last meeting and they chose to re-open it.

Comm. Parkins responded that it requires a 2/3 vote.

Mr. Panico commented that at the last meeting, there was a discussion about the lack of precise information as to how the lot was to be carved out and how it was to be configured, and no one seemed to have a map. There was a significant amount of confusion in that regard that has now been clarified.

Comm. Sedlock asked if this would clear up the confusion so that they don't have to do it again.

Chairman Pogoda added that he had questions last time about the entry way to it. He didn't have a map delineating the location of the house and how the property would be accessed. This map shows it.

Mr. Panico commented that quite frankly, if they were going to carve out a standard R-1 lot with 150 feet of frontage and 265 feet of depth, then it would have intruded dramatically into the interior of the site and have significant effects. As they find out now, it is to be a very shallow lot, 160-165 feet deep, stretched along the frontage to tie the existing house with the houses next door. So, it doesn't intrude on the interior usability of the property.

Comm. McGorty added that access to the lot was the major problem, but in light of the new information, they now know there is over a 140 feet of frontage providing plenty of access to the property.

Chairman Pogoda indicated that there was also the issue brought out about possibly using this as a community garden, but as was stated, there are a couple of areas in town that are being considered.

Comm. Jones asked if he knew where those areas are.

Chairman Pogoda responded that he did not know.

Mr. Panico added that they are talking about an almost 14 acre parcel of land in which they are discussing the removal of one acre. It is not like that possibility is completely eliminated. Looking at the topography, that particular portion of the site, where the lot is proposed to be carved out, has a rather significant slope; it runs 12% -14% across that portion of the parcel.

Mr. Schultz informed the Chairman that they have letters from the City Engineer and all these revisited 8-24 Referrals dated September 8th. The City Engineer

comments that the disposition of the house shall include a parcel of land that conforms to the appropriate P&Z subdivision rules.

Comm. Jones commented that he wanted to say, as Rick mentioned, that the BOA rely on the Conservation Commission's recommendations. The Conservation Commission made the recommendation in their minutes to retain this property for the Farm-Link Program which helps meet potential farmers with land. So if the BOA relies on the recommendation of the Conservation Commission, then they are contradicting themselves.

Chairman Pogoda responded that he doesn't understand his comments about the BOA relying on the Conservation Commission.

Comm. Jones responded that the BOA recommended that the City not sell this land and P&Z voted on not selling this land - now, all of sudden, it comes back because lines have been redrawn on the parcel of land proposed to be sold off.

Chairman Pogoda indicated that they didn't redraw it.

Comm. Jones responded that – they didn't redraw it – they drew it. It was never drawn before.

Chairman Pogoda agreed and indicated that now they are seeing the actual portion of the land that is to be sold off in the overall scheme. That was not presented to them last time. It was an open piece shown as a square on the lot without showing its position.

Comm. Parkins commented that the facts presented last time were that it would restrict access to the property and there was consideration of it being used as a community garden.

Mr. Panico indicated that if and when something were to be sold, it would be a rectangle of land adjacent to the roadway as marked on the map. That is the only parcel that is being considered for possible sale. Once again, this Commission can make whatever referral they wish; whether it is positive or negative, the Aldermen may choose to do it or may choose not to do it. Their concern is looking at this from the point of view of long range planning potential of that piece of property and they need to determine whether that significantly impacts it or doesn't.

Thomas Harbinson asked the Chairman if it would help to explain the Farm Link program to the Commission.

Thomas Harbinson, Chairman, Conservation Commission, 15

Soundcrest Drive, Shelton addressed the Commission. Mr. Harbinson commented that it was alluded to that they were aware that the Conservation Commission wanted to have a program examined for the UCONN Farm Link program.

Mr. Harbinson provided a description of the Farm Link program by explaining that the property, as a whole, has an agricultural value. That is why they indicated that it should be purchased as open space. Earlier tonight, the Commission agreed that a portion of it should be licensed for agricultural purposes. The Farm Link Program is like match.com for farmers. There are farmers out there that want to grow a particular product and they are looking for a location with suitable soil types or a good location for a road way farm stand, for example. It is usually for a specialized crop. They looked into the UCONN Farm Link to offer this property as a potential suitor. They discovered that in order to apply for the program, they had to have data of the characteristics of

the soil types and other agricultural value characteristics that they weren't aware of.

Mr. Harbinson continued that they have applied to the Kingsmark organization to have an analysis done of the property (the soil types, setbacks from nearby residential areas, etc.). They went a little beyond that in anticipation of long range planning, as they try to do. So, in the request for Kingsmark, they asked that they not just look at Soundview Avenue but also the adjacent parcel of the Wicek property which was purchased as general City Open Space, and also the forested open space dedication from Summerfield Gardens. So, collectively that open space at the extreme end of the Shelton Lakes Greenway could be analyzed for a full-fledged commentary on its agricultural potential for the City, and also for submittal to the UCONN Farm Link program.

Chairman Pogoda asked for some insight as to why the Conservation Commission requested that the site not be sold.

Mr. Harbinson responded that the Farm Link Program typically does have a residential component with it. He referred to the list available on the UCONN website; there are quite often small acreages that include a residential portion. It is not uncommon for farmers who are looking for hired hands to provide housing as part of the compensation. Commonly, in agriculture, a residence goes hand in hand with the agricultural fields; so although they don't know the livability status of the house, they thought the removal of it might impact its ability to participate in that program. They just thought it was worthy of further examination.

Comm. Jones asked where he stands in that process right now.

Mr. Harbinson responded that it has applied to Kingsmark which is a non-profit agency that is closely linked with the USDA. Their office is in Wallingford. They have worked with them successfully in the past; notably for a grant to the U.S. Department of Forest Service for the timber bridges that are on their Rec. Path. They have worked with Kingsmark before and the way they receive applications from around the State is on a pecking order – so he isn't sure when they will get to it.

Comm. Parkins asked if it was a requirement of the program.

Mr. Harbinson responded that it is a requirement to submit the agricultural aspects of the land that they feel could be used for the UCONN Farm Link Program. So rather than have the City spend its dollars to hire soil scientists and other experts to review it, Kingsmark does it for free.

Comm. Parkins asked if it was a requirement to have a residence on the property.

Mr. Harbinson responded that some of the parcels currently listed do not have residences, but a number of them do. It is not mandatory.

Comm. Jones commented that Tom presented this at the last meeting and it is in the minutes. It wasn't just a discussion about it being a community garden. He added that he thinks it is a great, progressive idea for them to work with a State university.

End of Tape 2A 8:40 p.m.

Chairman Pogoda responded to Comm. Jones that no one is saying anything against the land being used for that.

Comm. Jones responded that they want to carve out ...

Chairman Pogoda indicated that they aren't carving out – the location is on the boundary – it's not in the middle. He really doesn't think that is carving.

Comm. Jones indicated that he realized he is in the minority and he didn't want to beat a dead horse. He added that he just didn't like how they voted "no" and now it has come back – he indicated that this is just like 828 Bridgeport Avenue where they voted "no" and it came back and they voted "yes". He concluded that he just wanted to take a vote.

Comm. Parkins indicated that she disagreed with Chris because when they originally discussed this, and when they first passed this motion, one of the big considerations they were looking at was the uses. She recalled to Chris, that he indicated himself, that he thought this property was overpaid for. She added that this gives them the opportunity to reduce that price by selling off a house which will reduce liability for the City and still allow that area to be used for agricultural purposes or, if not that, then down the road, for a football field or a soccer field. She indicated that she wanted to make a motion to approve favorably on this 8-24 Referral.

On a motion made by Ruth Parkins seconded by Thomas McGorty, it was voted (4-2) to report favorably on the 8-24 Referral regarding the disposition of a portion of City Open Space property located at 279 Soundview Avenue. Commissioners Jones and Sedlock voted against reporting favorably on this 8-24 Referral.

8-24 REFERRAL: DISPOSITION OF A PORTION OF MIDDLE AVENUE AS SHOWN ON THE ATTACHED MAP

Comm. Jones commented that this item was on the agenda before too and they voted yes on it.

Atty. Dominick Thomas, 315 Main Street, Derby, CT, representing the applicant addressed the Commission. Atty. Thomas responded that the reason it was coming back to the Commission was because the 8-24 Referrals regarding Middle Avenue and Access Road were inappropriately worded for a "discontinuance" of the roads.

Atty. Thomas indicated that Asst. Corporation Counsel has made an opinion that the word "disposition" should be used instead of "discontinuance."

Atty. Thomas indicated that he assumes the Commissioners would just follow their prior votes regarding Middle Avenue and Access Road, but he asked them to look at Ordinance #839 which deals with the sale of City property. He provided copies of Ordinance #839 for all the Commissioners, and added that the City does not distinguish between zoneable and non-zoneable property in the way that the State does. That is his reference in the minutes to SPITE STRIPS.

Atty. Thomas explained that if property is zoneable, the State and the City, can make it into lots, have it appraised and sell it. However, in the case of non-zoneable property (i.e. sale of excess right of way) the question arises as to whether or not a piece of property is an acceptable piece of property under the zoning or if something can be built on it. If the answer is no, and there is a single abutter, the State does an appraisal as an assemblage and offers it to the city for a price as required by State statute. If the City rejects it for that price and there is a single abutter, it is offered to the abutter. They do not create spite strips.

Atty. Thomas suggested that as a planning commission, they need to look at this regulation because if the City starts selling non-zoneable property (i.e. Access Road or Middle Avenue), this ordinance, in his personal and legal opinion, needs to be made similar to the procedures for the purchase of State property in which non-zoneable property should be offered to the abutter or it will create spite strips. Otherwise, in a the worst case scenario, someone will buy the spite strip, go to ZBA, claim they have a hardship and try to get a variance because the City, not them, created a non- zoneable lot.

Atty. Thomas also provided an update regarding Access Road. He commented that the State of Conn. has decided that if the City really wants to buy out the road requirement, then they should appraise the entire Access Road, not just 9/10 of an acre and offer the City to buy it out.

He continued to say that, unless Atty. Sous can talk them out of it, they are going to appraise the entire Access Road- they aren't discontinuing it - as an assemblage to the properties along side of it, give it a value, and tell the City that they have to pay back if they want it.

Atty. Thomas continued that he assumes that the City of Shelton would turn around and try to sell it. He is still trying to figure out the whole process. Therefore, that is why they are in a position of being unable to file anything to straighten out any issues out. He is pushing this but he can't make anymore calls to the State or they will send out a warrant for him as a stalker.

Chairman Pogoda asked for a motion on the 8-24 for a disposition for a portion of Middle Avenue as shown on the map.

Comm. Parkins responded that her understanding is that they voted on the abandonment of it last time, and now they are voting on the sale of it.

Mr. Schultz added that the City Engineer letter indicates that he remains unfavorable.

On a motion made by Ruth Parkins seconded by Thomas McGorty, it was unanimously voted to report favorably on the 8-24 Referral regarding the disposition of portion of Middle Avenue.

8-24 REFERRAL: DISPOSITION OF CITY PROPERTY LOCATED AT 470 HOWE AVENUE

Mr. Schultz indicated that this is the former Police Department. The Parks & Rec. Commission and the Conservation Commission have no issues with the sale of the property. Staff has discussed this over the last 10 – 13 years. The property is located in the Central Business District downtown. It is a critical location for the redevelopment of Downtown. The Fire Department would like to retain title to that property for possible offices. The referral to this Commission from the BOA is on the disposition of it.

Comm. Sedlock commented that he thinks it would be in the best interest of the City to hold on to it, especially with the condos, new businesses, and more people going Downtown. Additionally, with the existing problems with Downtown, it would be better served as a substation for a Police Dept. rather than selling it. He is against the sale of that piece of property.

Chairman Pogoda asked if there were any other comments.

Comm. Lopera asked if, since this is a referral from the BOA, he assumes that they have taken that into consideration. Certainly, it is a piece of property in the central district that doesn't have any other uses than commercial, so if they City is asking for a referral for a planning purpose, he thinks it should go back on the tax roll.

Comm. Sedlock responded that they may be thinking that way at this particular time, but he thinks that in the long term, the City should be able to use that piece of property again as opposed to gaining serious problems Downtown. With more thousands of people in that area, they may have to bring in a police presence, and then they will have to buy a new building.

Comm. Parkins added that she thinks the Referrals just allow the BOA to move forward and investigate the potential sale.

Chairman Pogoda agreed, it doesn't necessarily mean that they are going to sell it right now.

Comm. Sedlock commented that if they want a recommendation as to whether this Commission thinks they should pursue it – then he doesn't think that they should pursue investigating the sale of that property. He added that he thinks it is an important piece of property, historically and potentially for future use.

Comm. Jones indicated that with the future of Downtown revitalization and 600 living units, the planning aspect of that would be better served by a police presence. He added that he thinks that they need a cop downtown. His office is downtown; Tom's office is downtown...

Mr. Panico commented that they need to ask themselves if that is a substandard site in the sense that it is right on the street – wall to wall with the other buildings. There is no off street parking or off street services of any kind. It is strictly a walk-in and walk-out situation which is fine for retail. He asked if it would work for a governmental office.

Comm. Sedlock responded that it has functioned in several capacities for Downtown – the Senior Program years ago, storage for Center Stage. He believes that building has some value or use to the City of Shelton in the future. He doesn't think they should sell it for a few hundred thousand dollars and then have to go back and look at it again. He concluded that he thinks the City should keep that.

Comm. Parkins asked if anyone knew the condition of the building.

Mr. Panico responded that it should be pretty good because they did a complete renovation of it not too many years ago.

Comm. Jones commented that the building was horrible – there are mushrooms growing in there.

Comm. McGorty added that he heard it was in disrepair.

Comm. Jones indicated that he walked through it. They've owned that property, and the City let it go into disrepair.

Mr. Schultz commented that Valley Health has been in there.

Comm. Sedlock indicated that the reason that there may have been some problems in there recently is because the heat was turned off and they had a water pipe break. That was the biggest problem in the last few years. He

knows that because he is involved with Center Stage and the City generously allowed them to use it for storage. He continued that he thinks that piece of property, regardless of its condition, is an important piece of property for the future development of Shelton in some capacity – as a substation, Fire offices...

Comm. Lopera responded that he thinks it just depends on their view of the best particular spot for that type of thing.

Comm. Parkins asked if they had any idea where the BOA stands on this – or what use they would consider for it.

Comm. Sedlock commented that he thinks that is an excellent question.

Chairman Pogoda responded that he has no idea, but they aren't being asked to determine what goes in there. Whether they vote favorably or unfavorably, it is still up to the BOA to decide. This is just a recommendation from us. He agreed that it is a historical piece.

Comm. Parkins asked if approval for the use would come back to them if the City keeps it.

Mr. Schultz responded yes, absolutely, because it would be a capital expenditure so they would have to do an 8-24 Referral on it.

Comm. Sedlock indicated that either way, he thinks it would be incumbent on them to make a motion to keep it because it would be an indicator that the Commission is serious about keeping it – unless others feel strongly otherwise.

Comm. Lopera stated that there are a lot of different uses that could be put there. If it came from the BOA, he still thinks it is more valuable on the tax roll. He doesn't disagree with the idea of a substation but he doesn't know if that is the best location or if they want to incur the expenses to fix up that building. He's of the view that if the City is not using it and hasn't used it, they are better off putting it back on the tax roll and letting someone develop it, retain the façade, and do a nice storefront. The City may decide that they want a substation closer to the apartments or on another street. Comm. Lopera added that he wasn't at the last meeting – but as with the 8-24 for the house – he's concerned about liability for the City to have properties that are on the City roll. The problem is that the City gets sued all the time for all kinds of things, so liability is a big concern to him. There are a lot of buildings in the City that have been renovated well by private investors. Certainly, the building façade is nice, but if it just sitting there deteriorating, he thinks they should have someone else pay to fix it up and put the substations somewhere else.

Comm. Jones made a motion to report unfavorably on the 8-24 Referral for the disposition of property at 470 Howe Avenue. Comm. Sedlock seconded.

On a motion made by Chris Jones seconded by Joe Sedlock, it was voted (2-4) to report unfavorably on the 8-24 Referral for the disposition of City property at 470 Howe Avenue.

Chairman Pogoda indicated that it was 4-2 in opposition to the disposition – so the motion fails. He stated that they would need a new motion.

On a motion made by Thomas McGorty seconded by Patrick Lopera, it was voted (4-2) to report favorably on the 8-24 Referral for the disposition of City property located at 470 Howe Avenue. Commissioners Jones and Sedlock voted against reporting unfavorably on this 8-24 Referral.

8-24 REFERRAL: DISPOSITION OF A PORTION OF ACCESS ROAD AS SHOWN ON THE ATTACHED MAP

Chairman Pogoda stated that this is an issue of wording suggested to be changed by Asst. Corporation Counsel.

Mr. Schultz added that the word was "abandonment" and it should be "disposition". They reported favorably at the 8/11/09 meeting. City Engineer again gives a negative recommendation.

On a motion made by Ruth Parkins seconded by Chris Jones, it was unanimously voted to report favorably on the 8-24 Referral for the disposition of a portion of Access Road.

Comm. Jones stated that in lieu of the ordinance #839 that Atty. Thomas provided to them, he wanted to go on record. He read that #3B states that "if an 8-24 Referral is unfavorable, the BOA must override the unfavorable by a 2/3 vote in order to proceed." He indicated that the BOA did not do that two days after their meeting; therefore, he questions again why this is back on the agenda. They didn't override it with an unfavorable by 2/3 vote in order to proceed – so having it on the agenda is wrong.

CRESCENT VILLAGE: REQUEST FOR REDUCTION OF SITE BOND

Mr. Schultz indicated that they have a \$100K site completion bond, a little bit more than half and Staff recommends reducing that \$100K to \$50K. This is the old Pinecrest Country Club.

On a motion made by Patrick Lopera seconded by Chris Jones, it was unanimously voted to approve the reduction of the site bond at Crescent Village.

ZONING ENFORCEMENT: 54/56 AND 60/62 OAK AVENUE: JUNKYARD CONDITIONS

Mr. Schultz stated that Staff recommends that this be tabled. The property owners are working with Staff on this.

On a motion made by Patrick Lopera seconded by Chris Jones, it was unanimously voted to table the Zoning Enforcement for property at 54/56 and 60/62 Oak Avenue.

PAYMENT OF BILLS

On a motion made by Patrick Lopera seconded by Thomas McGorty, it was unanimously voted to pay bills, if funds are available.

STAFF REPORT

Mr. Schultz reviewed the ZBA issues, Zoning Subcommittee (sign regulations) and Downtown Subcommittee updates and the schedule of upcoming meetings.

ADJOURNMENT

On a motion made by Patrick Lopera seconded by Ruth Parkins, it was unanimously voted to adjourn at 9:10 p.m.

Respectfully submitted,

Karin Tuke

Recording Secretary, Planning & Zoning Commission